STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioners

v **File No. 120902-001**

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 17TH day of October 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 26, 2011, XXXXX, on behalf of her minor twin sons XXXXX [1] (the Petitioners), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Commissioner reviewed the request and accepted it on May 3, 2011.

The Commissioner immediately notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information it used to make its final adverse determination. The Commissioner received BCBSM's response on May 12, 2011.

The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

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1 The Petitioners were born XXXXX.

II. FACTUAL BACKGROUND

The Petitioners are enrolled as eligible dependents under a group health plan that is underwritten by BCBSM. Their benefits are defined in BCBSM's *Community Blue Group Benefits Certificate* (the certificate).

On November 16, 2010, XXXXX had a behavioral evaluation by XXXXX, MD, at the XXXXX. The charge was $395.00. On November 30, 2010, XXXXX was evaluated for anxiety by Dr. XXXXX. The charge was $195.00. Dr. XXXXX does not participate with BCBSM.

BCBSM denied coverage for both visits. Following the Petitioners' appeal, BCBSM held a managerial-level conference on February 15, 2011. At the conclusion of the internal grievance process, BCBSM issued a final adverse determination dated March 1, 2011.

III. ISSUE

Is BCBSM required to cover the Petitioners' services received on November 16 and November 30, 2010?

IV. ANALYSIS

BCBSM's initial reason for rejecting the Petitioners' claims was explained in its final adverse determination:

> The receipts for the services in question indicate the provider Tax ID as [that of XXXXX, PhD]. Dr. XXXXX is the only provider registered with us under that Tax ID. Therefore, the claims processed correctly with Dr. XXXXX as the rendering provider.
>
> At the time of the services, [the Petitioners] were covered under the *Community Blue Group Benefits Certificate*. As explained on Page 4.19 of the certificate, "We pay for office, outpatient and home medical care visits and therapeutic injections by a physician." Page 7.19 defines a physician as "A doctor of medicine, osteopathy, podiatry, chiropractic or an oral surgeon." Because, Dr. XXXXX is not a physician, the claims were appropriately denied indicating the provider's specialty is not payable.

Both the November 16 and the November 30 office visits were billed with CPT code 99205 ("office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: a comprehensive history; a comprehensive examination; medical decision making of high complexity . . . "). [2] Under the certificate, office

2 *Current Procedural Terminology 2007*, pp. 9-10.

visits are covered if provided by a physician. Dr. XXXXX, a pediatric psychologist also at the XXXXX, was not eligible to bill CPT code 99205 because he did not meet the definition of "physician" under the certificate [3] and therefore the claims were properly rejected by BCBSM.

The Petitioners' mother, however, informed BCBSM that the office visits had been with Dr. XXXXX, not Dr. XXXXX. She believes BCBSM should cover Dr. XXXXX's services because he is a licensed physician. BCBSM still rejected the claims, citing the following provision in the certificate:

> **Physician and Other Professional Provider Services That Are Not Payable**
>
> **The following services are not payable:**
>
> *** * ***
>
> - Health care services provided by persons who are not eligible for payment or appropriately credentialed or privileged (as determined by BCBSM) or providers who are not legally authorized or licensed to order or provide such services.

BCBSM states Dr. XXXXX is not a registered provider and therefore its denial was correct. Even though Dr. XXXXX is a licensed physician, BCBSM only covers services from providers who are "appropriately credentialed or privileged." The credentialing process helps BCBSM ensure that providers possess appropriate education and certification. Since Dr. XXXXX is not registered or credentialed by BCBSM, his services are not eligible for payment under the certificate.

The Petitioners' mother, in an undated letter submitted with her request for external review, expressed her view that BCBSM was possibly being arbitrary and unreasonable by not registering Dr. XXXXX:

> I understood that Dr. XXXXX was "out of network" and I would end up paying a portion or at a minimum the amount should have been applied to my "out of network" deductible, which I very well believe I met. If Dr. XXXXX is required by law to register with Blue Cross then I urge you to turn this over to the appropriate department in order to facilitate his office to comply. They are being unreasonable to expect me to do this on their behalf.

3 "Physician" is defined as "A doctor of medicine, osteopathy, podiatry, chiropractic or an oral surgeon."

There is no requirement in the law that Dr. XXXXX register with BCBSM. Moreover, in a review under the Patient's Right to Independent Review Act, the Commissioner has no basis for inquiring as to why Dr. XXXXX did not maintain or renew his registration with BCBSM. BCBSM states his registration ended in October of 2004 and that its provider enrollment department has no record of any requests from Dr. XXXXX concerning his registration status. Dr. XXXXX is not a party in this case and there is nothing in this record to explain why he has not reregistered with BCBSM.

Based on the foregoing, the Commissioner concludes and finds that Dr. XXXXX is not registered with BCBSM and that BCBSM's denial of the Petitioners' claims for his services was consistent with the terms of the certificate.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination of March 1, 2011, is upheld. BCBSM is not required to cover the Petitioners' November 16 and November 30, 2010, services.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.